

BEFORE : MRS. R.V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 20th January'2025

Sr. No. 27-TP/3677/2024 with
WILL/1446/2024
(ECHCBM02098342024)

Mr. Rajesh Bindra, Advocate for the petitioner.

For Compliance :

1. Perused the Petition. Heard Advocate for petitioner. The present petition is filed for Probate and last will and Testament of deceased viz. Homi Nariman Kotwal who died at Mumbai on 03.08.2023. Copy of death certificate is annexed at Exhibit -'A' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "A1" to the petition. Advocate for the petitioner has produce the copy of the Adhar Card which is verified by me.

2. Advocate for the petitioner submits that the said deceased, at the time of his death, was governed by the Hindu Succession Act, 1956 and having fixed place of abode at 27, Patel Apartment, Agiary Lane, Jambhali Naka, Thane, Maharashtra-400 601, and left property within the Greater Mumbai and State of Maharashtra.

3. That the deceased has left a writing, which is his last Will and Testament dated 11.01.2017. The original of the said last Will and Testament is marked as Exhibit 'B' and is handed in separately for being filed and kept in a safe place in the office of

the Prothonotary and Senior Master, High Court, Bombay. The said Will is handwritten in English language and copy of the same is annexed to the petition at Exhibit “B” to the petition. True typed copy of the will is annexed to the petition.

4. Advocate for the petitioner submits that the Petitioner is the Executrix namely Miss. Arnaz Homi Kotwal in the said Last Will and has filed for Probate in his capacity as the Sole Executor of the said Last Will.

5. Advocate for the petitioner submits that the said Last Will was duly executed by the Deceased at Mumbai in the presence of (1) Vishakha Chhapwale (2) Pawankumar Pagote. The said Will was notarised before Notary public on the same date i.e. on 11.01.2017 by the Deceased himself. The said will is annexed as Exhibit “B”.

6. Advocate for the petitioner submits that the properties which were left behind by the deceased and which are specified in the Schedule no. I which is annexed to the petition as Exhibit “D” to the petition and all the items which are permissible by law for the purpose of ascertaining the net estate of the deceased. The assets of deceased in Schedule I annexed to the petition is of Rs. 2,32,10,000/- and the petitioner has paid necessary requisite court fees for the same.

7. Advocate for the petitioner submits that the said will is in English language and handwritten will is duly executed and signed by the testator/deceased i.e. Homi Nariman Kotwal

and two attesting witnesses viz. (1) Vishakha Chhapwale A/602, Ramdev complex, Plot 53, sector 19, Nr. NHP School, Airoli, Navi Mumbai 400708 and (2) PawanKumar Pagote residing at IIPS Staff, Quarters, Room no. 17, Sector. 15 Near Jain mandir Nerul Navi Mumbai- 400706.

Advocate for the petitioner submits that it is mentioned in the Affidavits of both the Attesting witnesses that at the time of execution of said will the said deceased confirmed subscribing his signature to the said Will and he was of sound and disposing mind, memory and understanding and to the best of my belief made and published the name of his free will and pleasure.

8. Advocate for the petitioner submits that as per requirement of Rule No. 374 of High Court Original Side Rule 1980 and Indian Succession Act, 1925, the affidavits of the attesting witnesses viz. (1) Vishakha Chhapwale A/602, Ramdev complex, Plot 53, sector 19, Nr. NHP School, Airoli, Navi Mumbai 400708 and (2) PawanKumar Pagote annexed as page no. 26 to 33 to the petition.

9. Advocate for the petitioner submits that the parents of the deceased predeceased the deceased.

The deceased left behind him his legal heirs wife and two daughters viz. (1) Daizy Homi Kotwal (wife of the deceased) (2) Jasmine Homi Kotwal (daughter of the deceased) and (3) Arnaz Homi Kotwal (daughter of the deceased/petitioner herein). Daizy Homi Kotwal (wife of the deceased) (2) Jasmine Homi Kotwal had given their consent for

issuance of probate in favour of Arnaz Homi Kotwal, petitioner. The Consent Affidavit of Jasmine Homi Kotwal is annexed as page no. 23 to 25. Consent affidavit of Daizy Homi Kotwal is annexed separately to the petition.

10. In the present petition General citation was issued on **26.07.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **22.08.2024** for proving General citation. Notice to Collector is issued. After perusal of the petition, will and submission made by the Advocate for the petitioner, the petition deserves to be allowed, as prayed for. Hence, following order :

ORDER

- 1) Petition is allowed and the probate be granted to the petitioner herein having effect throughout in the State of Maharashtra.
- 2) Before issuance of the probate, the office to verify whether any cross Petition is pending or Affidavit resisting the petition is filed.

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**